

Rules 32.2

1. Procedures Implementing Sentencing Guidelines

(a) Scheduling of Sentencing. Sentencing proceedings shall be scheduled by the court at the time of adjudication of guilt not earlier than sixty (60) days following the adjudication of guilt.

(b) Time for Completion of Presentence Report. No later than thirty-five (35) days prior to sentencing, the probation officer shall complete and disclose the presentence investigation report to the defendant, counsel for the defendant, and counsel for the government.

(c) Time for Filing Objections to Presentence Report. Within fourteen (14) days thereafter, counsel shall communicate, in writing, to the probation officer objections to any material information, sentencing classifications, guideline ranges, and policy statements contained in or omitted from the report. A copy shall be served on opposing counsel. The court may conduct a show cause hearing and/or disallow objections in any case where such objections are not timely filed.

(d) Procedure for Resolving Objections to Presentence Report. After receiving objections from counsel, the probation officer shall conduct such further investigation as may be necessary. Counsel shall jointly confer with the probation officer to discuss and attempt to resolve contested issues. Thereafter, the probation officer shall make such revisions to the presentence investigation report as the probation officer deems appropriate. Unresolved contested issues, including the written position as filed by counsel and the opinion of the probation officer, shall be contained in an addendum to the Presentencing Investigation Report. If an objection by any party affects the guideline computation, the probation officer must attach a copy of that party's objection to the final pre-sentence report.

(e) Time for Filing Revised Presentence Report. The revised presentence investigation report and addendum shall be delivered to the judge, the defendant, and counsel not later than seven days prior to the sentencing hearing. The probation officer's sentencing recommendation shall be disclosed only to the judge.

(f) Expedited Procedures where Defendant Detained. If it appears that a defendant may be detained pending trial and sentencing for a period of time exceeding the sentence likely to be imposed under the guidelines, the court, upon motion of counsel for defendant at the time of adjudication of guilt, may direct the probation office to expedite the sentencing timetable.

(g) Court Acceptance of Presentence Report. The revised presentence investigation report may be accepted by the court as accurate except as to matters set forth in the addendum which shall be resolved as provided in Section 6A1.3 of the *United States Sentencing Commission Guidelines Manual* (November 1995).

(h) Service of Presentence Report. The presentence investigation report shall be deemed to have been disclosed when a copy is physically delivered or three days after a copy is mailed. Such dates shall be certified on the report by the probation officer.

(i) Procedure at Sentencing. Before final judgment is entered in a case, the court shall disclose to the defendant, defense counsel, and the attorney for the government, the court's tentative findings of fact and interpretation of applicable guidelines and shall afford the parties an opportunity to object to said tentative findings of fact and interpretation of the guidelines.

(j) Receipt of Presentence Report Under Seal. The final presentence investigation report, addendum, and probation officer's recommendation shall be received by the clerk under seal for inclusion in the record and shall be otherwise disclosed only upon order. Defendants and counsel may retain their copies. After final judgment, the presentence investigation report shall be returned to the United States Probation Office.

(k) Role of Defense Counsel in Presentence Investigation. Upon adjudication of guilt, the probation officer will initiate the presentence investigative process. Counsel for the defendant shall advise the probation officer attending court whether or not the defendant will submit to an interview with the officer and whether or not counsel desires to be present at the interview. Counsel, if attending, and the defendant shall make themselves available for the interview on the day of adjudication with the U. S. Marshal's Service providing, in custody cases, an appropriate location sufficient for accommodating a private interview at the court site or in the immediate vicinity thereof. If extraordinary circumstances prohibit conducting the interview on the day of adjudication, the probation officer will make arrangements to interview the defendant on a mutually agreeable date.